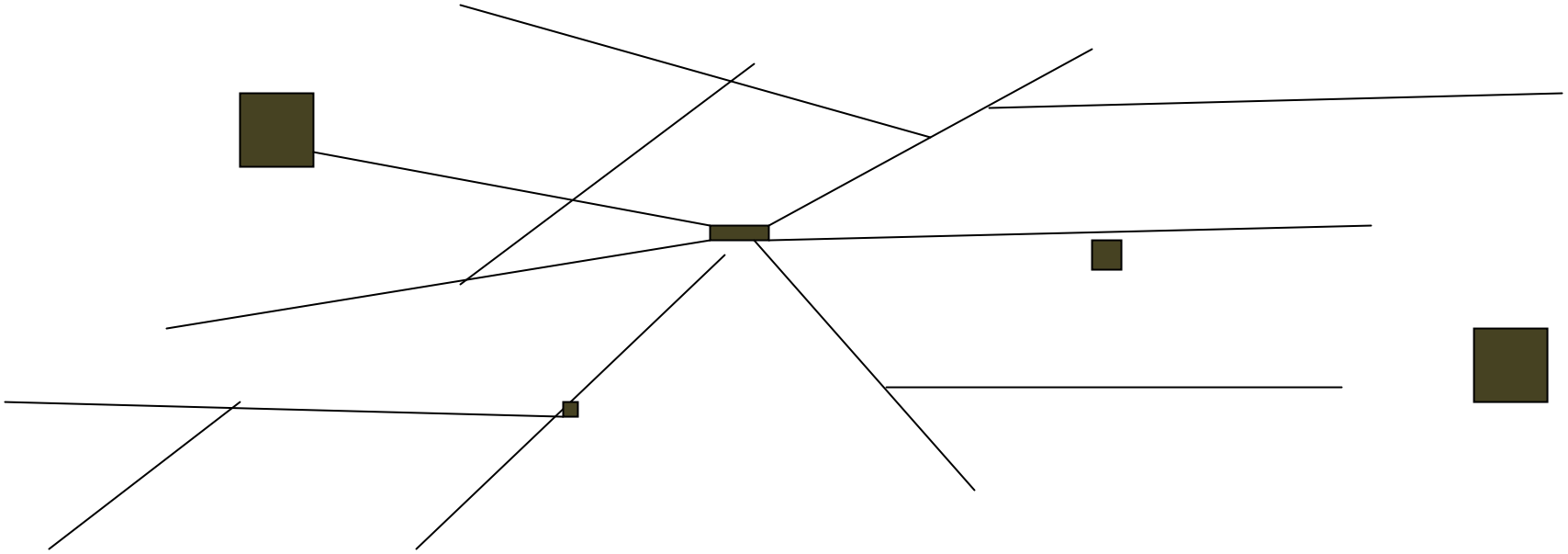
Accessibility Legislation

Section 504 of the Rehabilitation Act of 1973 (29 USC 794(a))

Americans with Disabilities Act (ADA) of 1990 (42 USC 12111)

Definition: Public Rights-of-Way (PROW)

- The PROW is the network of streets and sidewalks creating public pedestrian access within a public entity's jurisdictional limits.



Statutory language

Section 504: 29 USC § 794

No otherwise qualified “ individual with a disability in the United States . . . Shall solely by reason of her or his disability, be **excluded from participation** in, be denied the benefits of, or be **subjected to discrimination** under any program or activity receiving Federal financial Assistance or under any program or activity conducted by any Executive agency . . .”

ADA: 42 USC 12111 et seq: Title II, Part A:

“ . . . no qualified individual with a disability shall , by reason of such disability, be **excluded from participation** in or be denied the benefits of the services, programs, or activities of a **public entity**, or be **subjected to discrimination** by any such entity.”

Compliance Responsibilities for State and Local Governments

Institutions	Section 504	ADA
STA Recipients (SDOTs) and Subrecipients (MPOs)	X	X
Local Governments that DO receive FHWA Funds	X	X
Local Governments that DO NOT receive FHWA funds		X

Enforcement

- Overlapping enforcement powers over public agencies:
  - (1) Section 504 covers public agencies spending federal funds.
  - (2) ADA Title II covers public agencies with power over PROW.

Public Entity Responsibilities

- Primary method: Planning for Program Access:
  - Use planning processes, including transition plans, to ensure ADAAG compliant access for persons with disabilities to the public right-of-way.
  - Planning processes: including pedestrian planning aspects of new planning rule for MPOs. 23 CFR Part 450 (effective 3/16/07).

Public Entity Responsibilities

- Secondary method: Projects:
  - –New and alteration projects with pedestrian facilities in the scope of the project must meet ADAAG standards to the maximum extent feasible. 28 C.F.R. § 35.151.

State and Local Governments & Pedestrians

- Principle: State and local governments must provide curb ramps at pedestrian crossings and at public transportation stops where walkways intersect a curb.
- Walkways include areas where people must walk to access transit stops
- Intersections requiring curb ramps include any intersection where it is legal for a pedestrian to cross the street, whether or not there is any designated crosswalk.

Facility Definition

- Facility requiring curb ramps:
  - Intersection with intersecting sidewalk
  - Intersection where local law allows legal crossing, regardless of designated crosswalk or proximity to sidewalk

Why use Transition Plans?

- To provide a method for a public entity to schedule and implement ADA-required improvements to existing streets and sidewalks in the PROW.
- Required for curb ramp schedules but may be used for the sidewalks and detectable warnings aspects for ADAAG compliance.

General Requirements

- **Who:** Required for public entities with more than 50 employees.
- **What:** Schedules construction of curb ramps with detectable warnings for pedestrian access to existing PROW sidewalks and street access points.
- **Where:** Public right-of-way pedestrian facilities, with priority given to government buildings, transportation areas, etc. (EX: courthouse).

How

The Transition Plan schedule should:

- Identify existing facilities that limit access for persons with disabilities.
- Describe in detail methods to be used to make facilities accessible.
- Specify schedule for improving facilities by prioritizing needs of persons with disabilities in existing facilities.
- Indicate official responsible for implementation of plan.

Cost Issues

- Cost analysis = Undue burden standard: only when improvement requires cost that, when compared to entire transportation program, would create an undue financial burden, may improvement be considered too costly.

- End FHWA Presentation

ADA & Section 504

- Why are we talking about ADA/504?
  1) Annual Report on Project Review identified this as one of the top 5 areas that we need work.
  2) We conducted training on several Level 1, Level 2 Design Criteria last year and we plan on some specific ADA training this year.

- ADA guidelines have not given a significant emphasis in the last couple of years.

ADA & Section 504:
INDOT Responsibilities

- INDOT is responsible to oversee projects for FHWA.

  New Projects

  Alteration Projects

  Maintenance Projects

ADA & Section 504:
New Projects

- All projects for new construction that provide pedestrian facilities must incorporate accessible pedestrian features **to the extent technically feasible, without regard to cost.**
- At minimum, in the public right-of-way, meet ADAAG (ADA Accessibility Guidelines) standards, including:
    - Curb ramps with detectable warnings.
    - Unobstructed sidewalks with accessible slope, width.
    - Consider accessibility aids such as: accessible pedestrian signals and signs to facilitate safe street crossings.

ADA & Section 504:
Alteration Projects

In an alteration project, a public entity must make accessible, any pedestrian facilities changed **within the scope of the project** to the **maximum extent feasible**. 28 C.F.R. § 35.151(b). **Maximum extent feasible = technical feasibility, not cost**.

Alteration Definition:

- A change to a facility in the public right-of-way that affects, or could affect, access or use of the facility, including changes to structure, grade, or use of the facility.
- Examples: reconstruction, major rehabilitation, widening, functional and structural overlays, signal installation and upgrades.

ADA & Section 504:
Maintenance Projects

In a maintenance project, ADA and Section 504 are exempt.

Maintenance Definition:

- Activities intended to preserve the system, retard future deterioration, and maintain functional condition of the roadway without increasing structural capacity. (Maintenance is not an alteration)
- Examples: Liquid applied sealing, thin surface treatments (nonstructural), joint repair, pavement patching (such as filling potholes), shoulder repair, signing, striping, minor signal upgrades, and repairs to drainage systems

ADA & Section 504:
Scope of the Project

Scope of the project: Each altered element or space within the limits of the project shall meet ADAAG standards to the maximum extent feasible.

- Seek out the “Transition Plan”
- The project limits are out to out incidental construction.
- S-lines – use engineering judgment and common sense. (Does it make sense to fix the sidewalks and curb ramps down the S-line?)

GENERAL NOTE: Always document the project file on these decisions in case of future litigation.

ADA & Section 504: Transition Plans: Timing and Updates

- Originally transition plan projects **were to be completed by January 26, 1995**. 28 C.F.R. § 35.150 (c).
- All public entities were to have transition plans by July 26, 1992 (28 C.F.R. § 35.150(d)), with self-evaluations governed by 28 C.F.R. § 35.105.
- Update periodically, coordinate with STIP and TIP cycles.

ADA & Section 504: Transition Plans: Planning Issues

- Integrate transition plan with the Statewide Transportation Improvement Plan (STIP) and Transportation Improvement Plan (TIP)
- Incorporate improvement projects into transition plan as identified
- Identify facilities needing to be added:
  - As alteration projects occur
  - As maintenance projects occur

“To the Maximum Extent Feasible”

Definition from a Special report, “Accessible Public Right-of-Way”, Planning and Designing for Alterations, July 2007 Public Rights-of-Way Access Advisory Committee

Applies to the occasional case where the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In there circumstances, the alteration shall provide the maximum physical accessibility feasible. If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to persons with other types of disabilities, (e.g., those who use crutches, those who have impaired vision or hearing or those who have other impairments.

Design Memorandum No. 07-03 (Technical Advisory)

January 29, 2007

Subject: ADA Responsibilities Associated with Sidewalk Improvements

- **COMPLEMENTS: *Indiana Design Manual* Section 51-1.08**
- Highway or street resurface, rehabilitation, or improvement work in a suburban, intermediate, or urban (built-up) area in a city or town often requires the providing of adjacent curbs and sidewalks, or the repair or replacement of these facilities. In such an area, especially an urban (built-up) area, the faces of commercial or public buildings are often constructed on or in very close proximity to the right-of-way or property line.
- **State and local governmental entities under Americans with Disabilities Act (ADA) Title II are required to provide ADA-accessible facilities within the public right of way where public facilities such as public buildings, curbs and sidewalks, rest areas, weigh stations, etc., are currently located or are to be provided.**
- Private businesses which are considered to be places of public accommodations such as retail businesses, restaurants, doctor's offices, law offices, etc., are required under ADA Act Title III to provide ADA-accessible facilities on their private properties
- **Often, curb or sidewalk repairs or replacements may require changes in sidewalk elevations within the public right of way. INDOT is responsible for ascertaining that ADA requirements are addressed on INDOT right of way. A business that serves the public and has a building with the building face on or nearly on the right-of-way or property line is responsible for ensuring that the building entrances or walks, etc., are ADA-compliant and compatible with the adjacent public right-of-way sidewalk.**

ADA Curb Ramp Examples of Due Diligence

Fort Wayne District

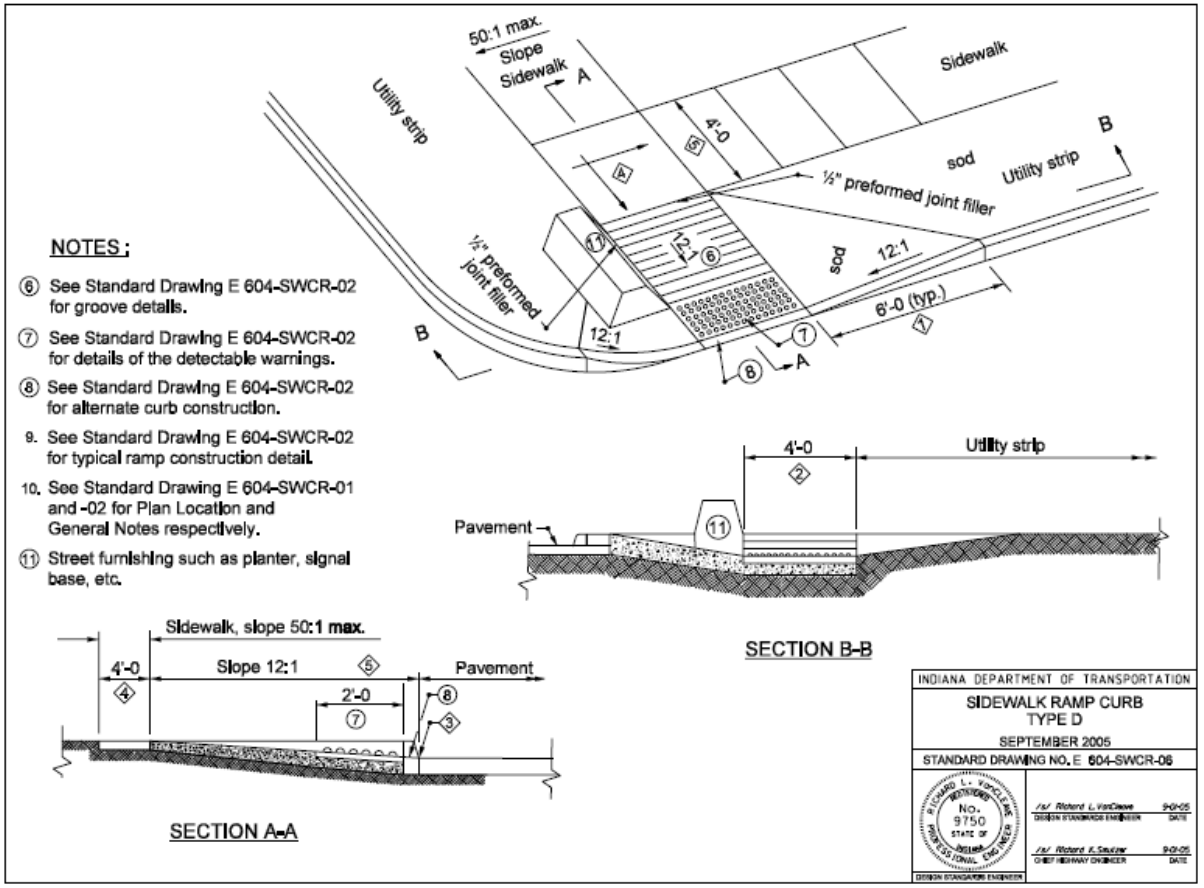
US 27

Compiled by: Susan Doell, Devin Webster, and Mike Peters

Gumper & NB US 27 Ft Wayne

- Example where we don’t have a good ramp type to use: Sidewalks Merge
- No Real Landing Provided for side street pedestrians

Standard Sheet E 604-SWCR-06
TYPE D SIDEWALK RAMP CURB



Eckart & NB US 27

- Another example of curb situation where sidewalks merge. In this situation the landing is available for both sidewalks. Could have helped the steep ramp by replacing one more sidewalk section on side street.

Dalman & US 27 Southbound

- Tight Wrap Around. Would be difficult for wheel chair to make the turn
- Structure in part of the ramp, but constructed to give wheelchair as much room as possible.
- Curb placed to hold back dirt, since no new right of way was purchased.

Sherwood &US 27

• Existing high sidewalk on side street. Had to use steep slope for curb ramp. (Picture shows 7” rise over 4’) But put in best that could be constructed without new R/W

• Even if this ramp was standard, once wheelchair was on sidewalk, they would have to traverse several obstacles like light poles and curbs on drives.

US 27 NB & Rudisill NW Quadrant

Built “K” ramp north of intersection to avoid corner’s obstacles. Works well here because of one way traffic.
(Traffic isn’t stopping in front of crosswalk.)
10” curb placed to hold back landscaping.

Rudisill & Lafayette (NB US 27)
SW Quadrant

- Tight Spacing Between Inlet, Cabinet, and Curb

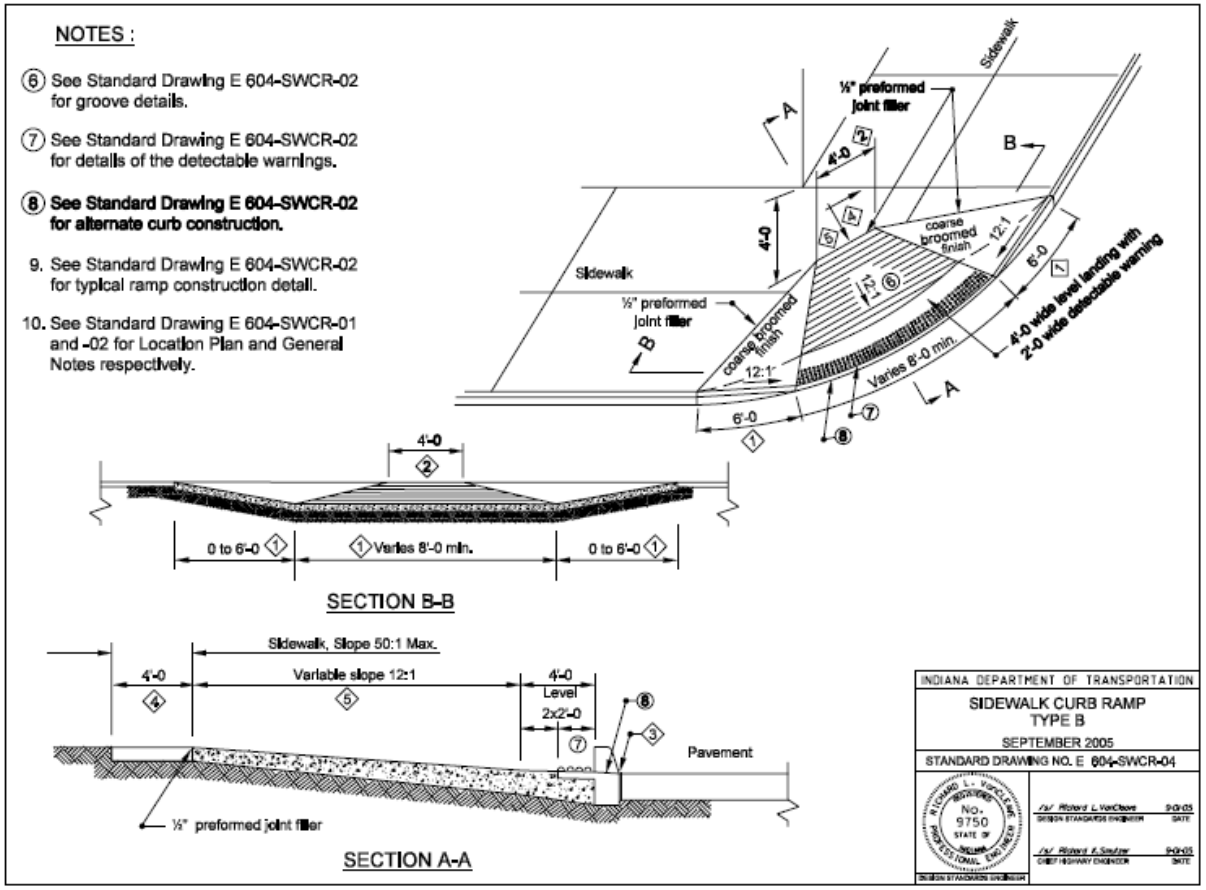
Boltz & NB US 27

- 11” Wall Was Needed To Contain Tree And Soil Behind Sidewalk

Field & US 27

•Private walk in the middle of State Curb Ramp. Needed owners permission to rebuild their sidewalk.

Standard Sheet E 604-SWCR-04
TYPE B SIDEWALK RAMP CURB



US 27 & Main SB in Fort Wayne

Steep curb ramp meets high sidewalk between poles, building and venting grates.

US 27 SB & Jefferson

Steep curb ramp needed here because of existing nearby landscaping wall. Not able to provide landing at top of ramp.

SR 13 & Carrol (in Syracuse) NE Quadrant

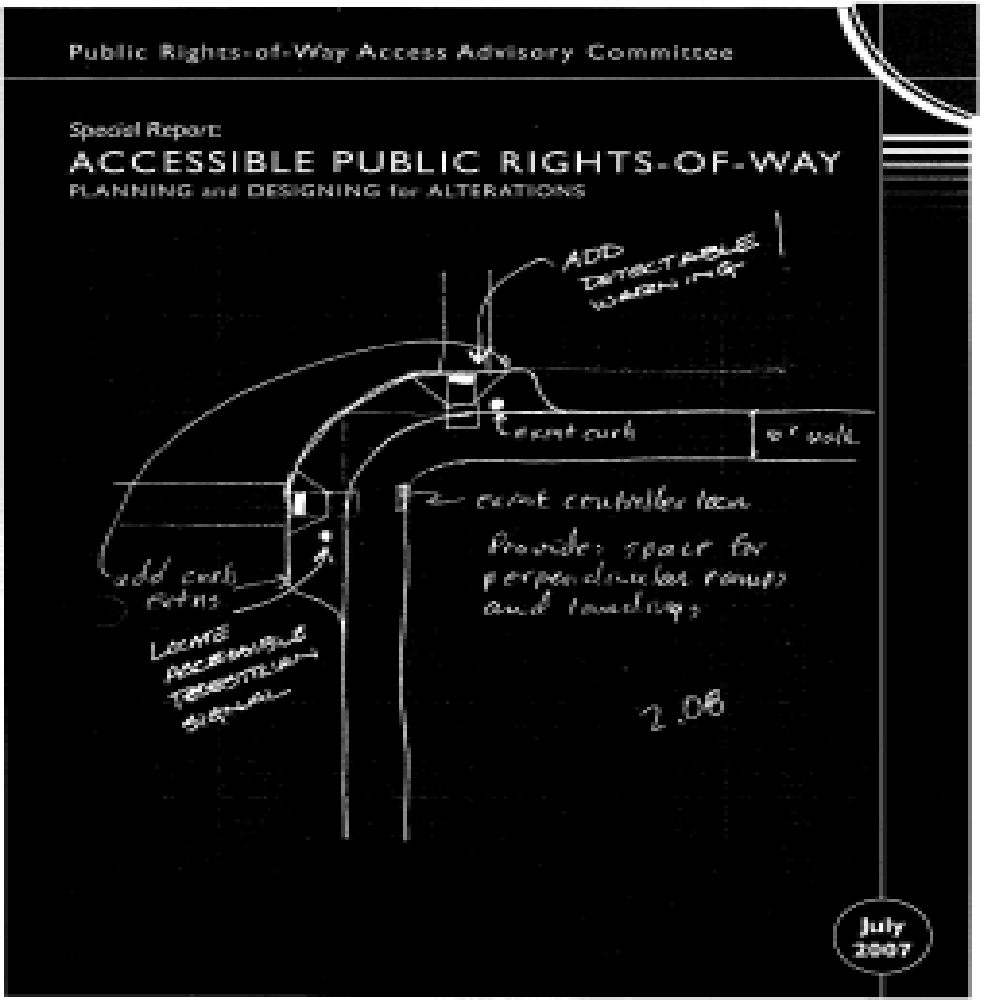
High existing sidewalk and private sidewalk necessitate steep ramp for pedestrians crossing SR 13.

Sidewalks merge with no landing for pedestrians on side street.

SR 13 Downtown Syracuse NW Quadrant

Fit curb ramp in front of nearby building, in between obstacles

Public Rights-of-Way Access Advisory Committee (PROWAAC)
Special Report: ACCESSIBLE PUBLIC RIGHTS-OF-WAY Planning and Designing for Alterations



Disclaimer on Publication

- This report and its recommendations are the work of a subcommittee of the Public Right-of-Way Access Advisory Committee (PROWAAC) and are intended to provide a technical assistance only. This report is not a rule and has no legal effect; it has not been endorsed by the U.S. Access Board, the Department of Justice, or the Federal Highway Administration of the Department of Transportation.

Design Solution Constraint Limited Right-of-Way

CONSTRAINT—LIMITED RIGHT-OF-WAY

Acquire Additional Right-of-Way

Problem Statement

Not enough room for curb ramp and landing

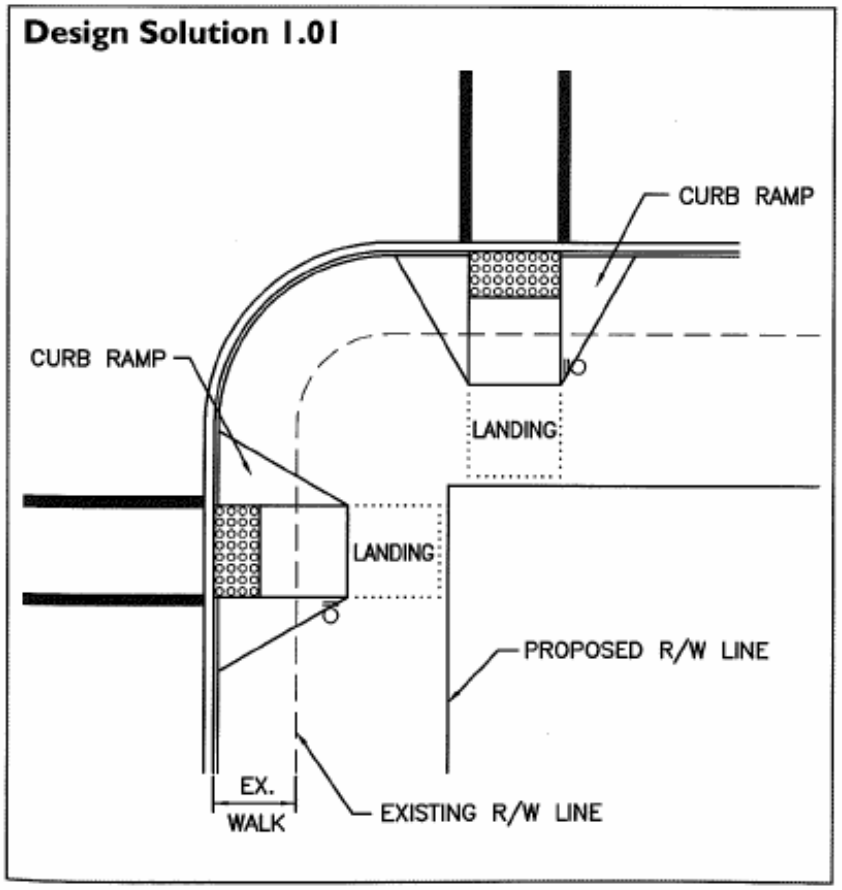
Problem and Design Solution Discussion

Existing street improvements, including vehicle lanes and sidewalks, consume the entire right-of-way. Often there is insufficient space for the installation of an accessible curb ramp and landing at a street intersection that will meet new construction standards. Increasing right-of-way width can provide sufficient space to create curb ramp and landing dimensions that provide ideal construction solutions. Often adjacent private developments in the permitting stage offer opportunities to acquire the right-of-way at no cost.

Application Considerations

- Acquire sidewalk easements.
- Acquire right-of-way dedication.
- Purchase additional right-of-way.
- Expanded sidewalk area will provide a larger area for pedestrians to gather/wait, and more room for curb ramps, landing, signal equipment, etc.
- May require alterations to building and/or other structural features located at or near corner.
- Sometimes acquisition of right-of-way is a long and costly process or not feasible.

Design Solution Constraint Limited Right-of-Way



Related Design Standards

- MUTCD
- Local Codes and Standards

Related Design Guidelines

- AASHTO
- PROWAG

Design Solution Constraint Above Ground Obstruction

CONSTRAINT—ABOVE GROUND OBSTRUCTIONS

Install Combination Curb Ramp

Problem Statement

Existing appurtenances limit travel space and installation of accessible landings and curb ramps at corners.

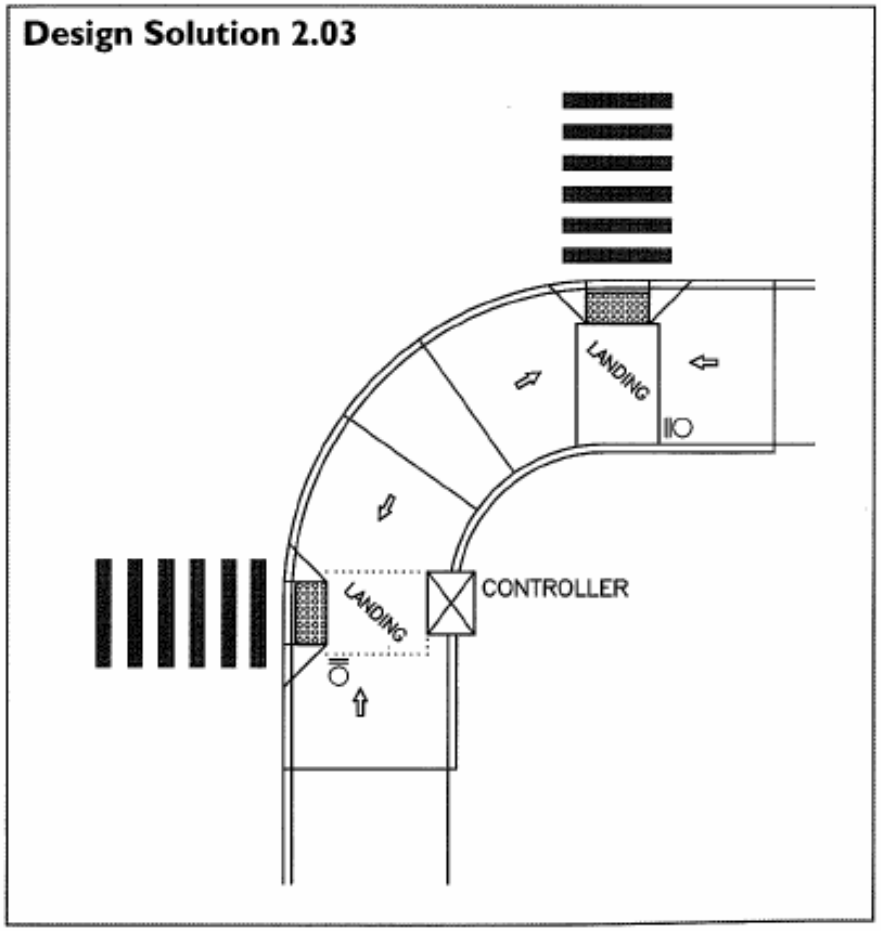
Problem and Design Solution Discussion

Placement of signal controller cabinets in the past failed to take into consideration the needs of pedestrians. Signal controller cabinets have been located for reasons of economy and convenience. Many of these units now block, or to a lesser degree, project into the PAR. If the base of the cabinet is sufficiently deep, it may be possible to use a combination sidewalk and curb ramp to achieve the appropriate layout. By ramping the sidewalk down three inches in the vicinity of the cabinet, it will be possible to reduce the length of curb ramp about three feet, thus providing adequate space for a landing.

Application Considerations

- Will require a suitable cabinet base to work around.
- Does not require acquisition of additional right-of-way.
- Does not require rewiring of the controller.
- Since APS post at back of landing would be too close to controller, move to front of landing at back of flare.

Design Solution Constraint Above Ground Obstruction



Related Design Standards

- MUTCD
- Local Municipal Specifications and Standards

Related Design Guidelines

- AASHTO
- PROWAG

Design Solution Constraint Above Ground Obstruction

CONSTRAINT—ABOVE GROUND OBSTRUCTIONS

Provide Blended Transition

Problem Statement

Accessible curb ramps and landings constrained by features that can't be modified.

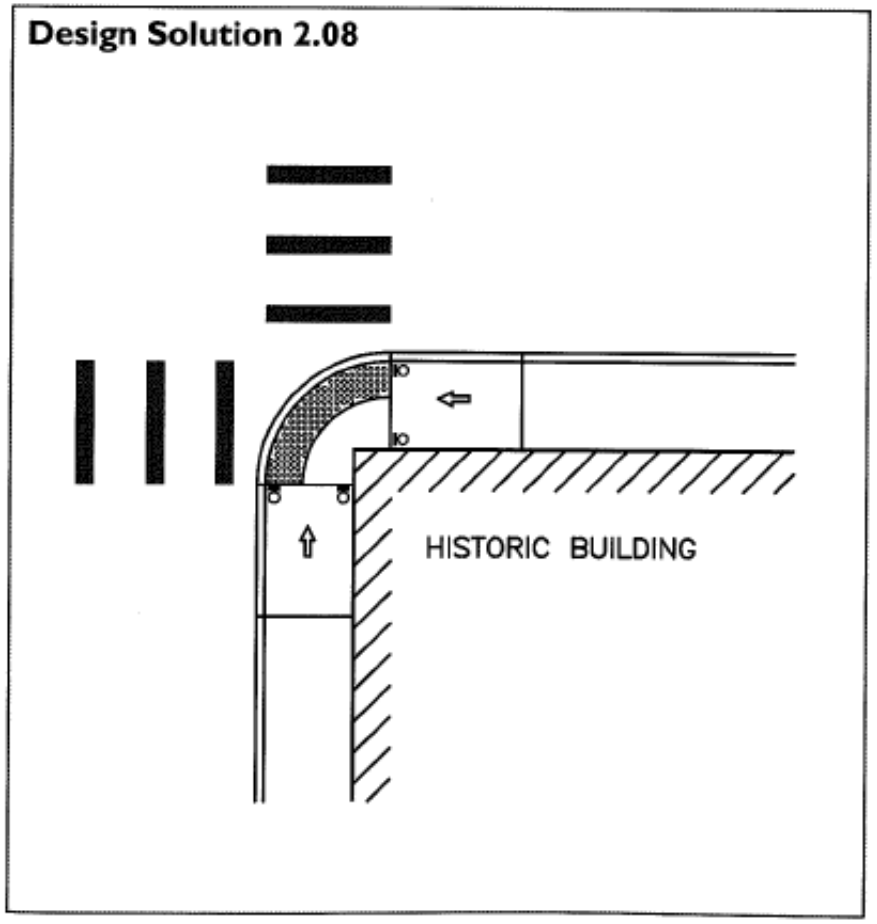
Problem and Design Solution Discussion

Existing historic features or significant trees limit travel space and the installation of accessible landings and curb ramps at corners. In this example, a historic building is located close to the curb face at the intersection. The solution here is to provide a transition ramp from each approach direction and provide a blended transition at the corner.

Application Considerations

- Will decrease pedestrian travel capacity. (Pedestrian pairs and groups will need to travel in single file.)
- Increases conflicts between pedestrians traveling in opposite directions.
- Building face/foundation must be able to accommodate changing sidewalk grades.
- A similar solution would be to raise the intersection to sidewalk level.
- More difficulty for blind travelers to determine directionality.
- For APS, provide audible message at this location since inadequate separation between push button locations makes it difficult for blind people to determine which push button guides each crossing.
- Pushbutton location either at curb or near face of building.

Design Solution Constraint Above Ground Obstruction



Related Design Standards

- Uniform Building Code
- Local Codes and Standards

Related Design Guidelines

- AASHTO
- PROWAG

Design Solution Constraint Excessive Roadway Slope

CONSTRAINT—EXCESSIVE ROADWAY SLOPE

Problem Statement

Existing street running grade does not support level landings and acceptable crossslopes on crosswalks.

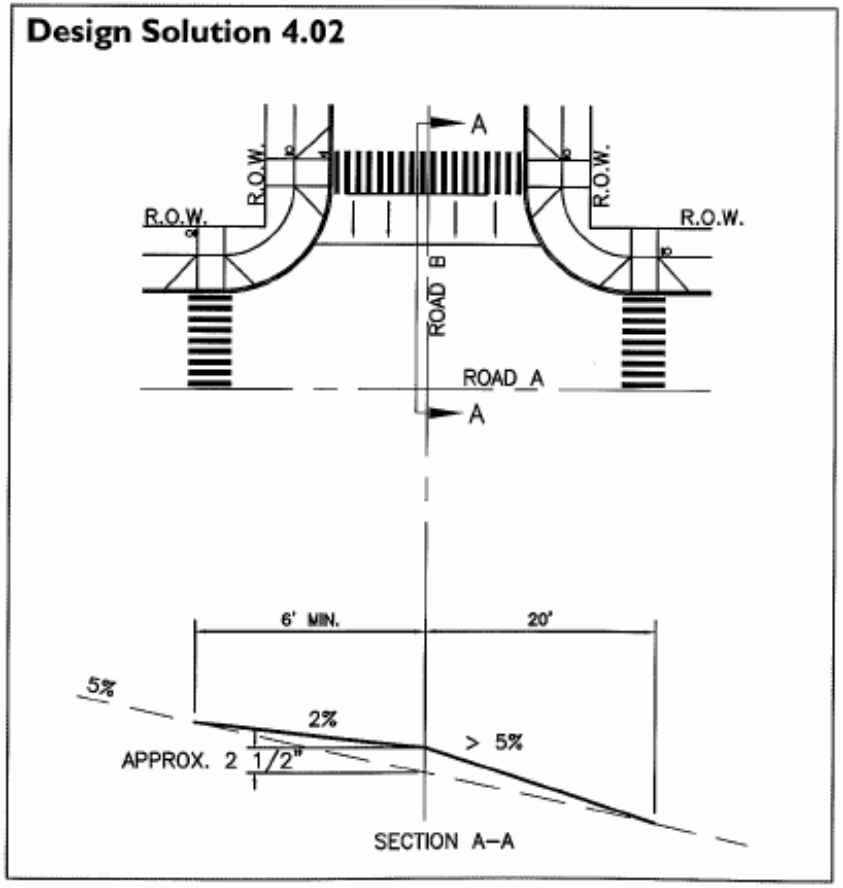
Problem and Design Solution Discussion

Street running grades in excess of 5% create challenges in the design and construction of accessible features at intersections. Modifying the street profile for the stop controlled street to 'table' the crosswalk providing a 2% or less cross slope in the crosswalk improves the crosswalk and allows for acceptable curb ramp at each end of the crosswalk. Note that the 2% cross slope only needs to be achieved within the 4-foot PAR, not across the entire crosswalk.

Application Considerations

- Revise intersection grades to create raised crosswalk.
- May create less desirable profile for vehicular traffic.
- May require street drainage changes/additions.
- Increases construction costs.
- Added difficulty in application of future pavement overlays.
- May introduce travel/grade change problems for bicycles.
- For steeper grades, longer grade transitions including vertical curves may be required.
- May have to rebuild subgrade.
- May impact drainage.

Design Solution Constraint Excessive Roadway Slope



Related Design Standards

- MUTCD
- Local Municipal Specifications and Standards

Related Design Guidelines

- AASHTO
- PROWAG

Design Solution Constraint Excessive Roadway Slope

CONSTRAINT—EXCESSIVE ROADWAY SLOPE

Regrade Roadway Profile to Provide Acceptable Cross Slope Across Intersection

Problem Statement

Existing street grade does not support acceptable crossslopes on crosswalks.

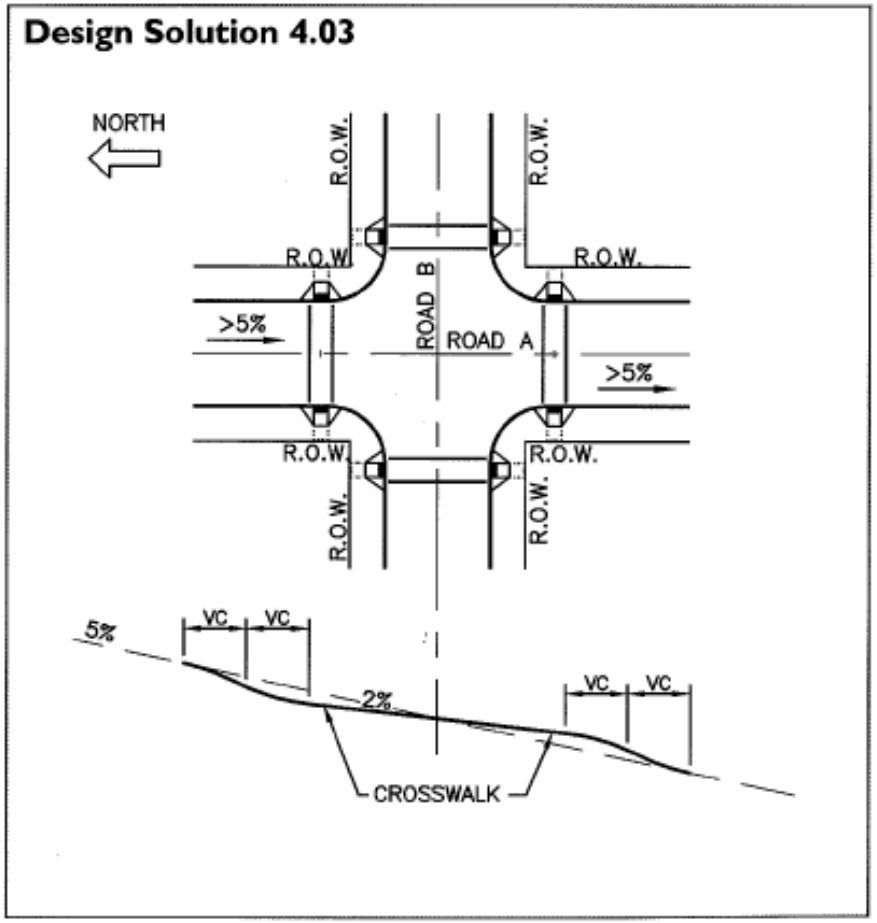
Problem and Design Solution Discussion

In this example the existing north-south leg of the intersection has a 5% grade. One solution is to table the entire intersection approaches to accommodate flattened crosswalk cross slopes for both the north and south approaches to the intersection. Ideally, the tabling would be accomplished by lowering the upper half of the intersection and raising the lower half of the intersection. The achieved grade through the intersection would be 2%.

Application Considerations

- Most appropriate when street is being reconstructed.
- Most appropriate for lower speed roadway.
- Revise entire intersection to create a level or flat surface.
- Alteration of all approaches may be necessary to vertically blend grades with the intersection.
- May require street drainage changes/additions.
- Will likely result in significant engineering and construction costs.
- Construction of flat intersection surface will potentially affect underground utilities, surface facilities, building entrances, transit facilities, and landscape features.
- More suitable with fewer lanes.

Design Solution Constraint Excessive Roadway Slope



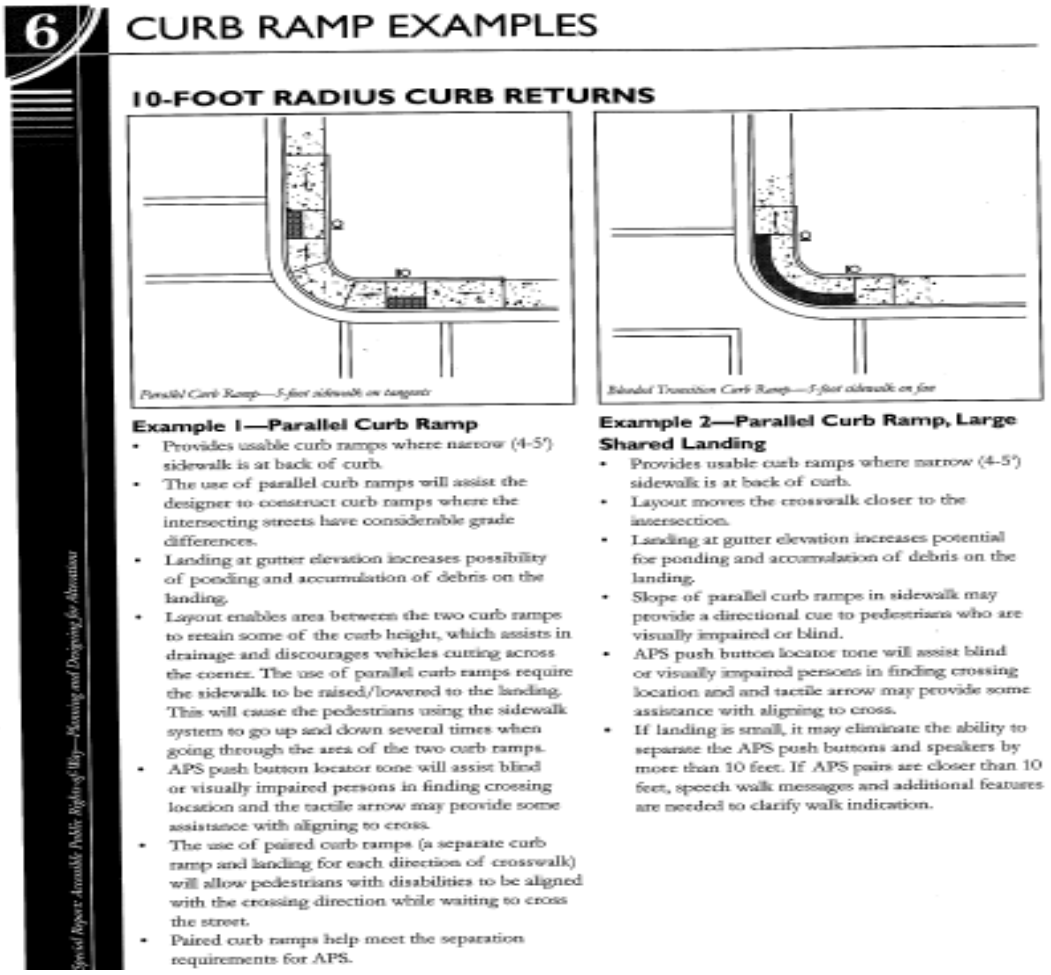
Related Design Standards

- Local Municipal Specifications and Standards

Related Design Guidelines

- AASHTO
- PROWAG

Curb ramp Examples – describes when different configurations should be used



6

CURB RAMP EXAMPLES

10-FOOT RADIUS CURB RETURNS

Example 1—Parallel Curb Ramp

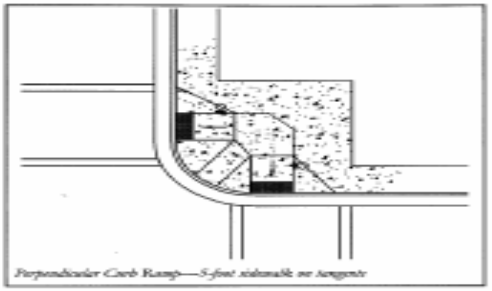
- Provides usable curb ramps where narrow (4-5') sidewalk is at back of curb.
- The use of parallel curb ramps will assist the designer to construct curb ramps where the intersecting streets have considerable grade differences.
- Landing at gutter elevation increases possibility of ponding and accumulation of debris on the landing.
- Layout enables area between the two curb ramps to retain some of the curb height, which assists in drainage and discourages vehicles cutting across the corner. The use of parallel curb ramps require the sidewalk to be raised/lowered to the landing. This will cause the pedestrians using the sidewalk system to go up and down several times when going through the area of the two curb ramps.
- APS push button locator tone will assist blind or visually impaired persons in finding crossing location and the tactile arrow may provide some assistance with aligning to cross.
- The use of paired curb ramps (a separate curb ramp and landing for each direction of crosswalk) will allow pedestrians with disabilities to be aligned with the crossing direction while waiting to cross the street.
- Paired curb ramps help meet the separation requirements for APS.

Example 2—Parallel Curb Ramp, Large Shared Landing

- Provides usable curb ramps where narrow (4-5') sidewalk is at back of curb.
- Layout moves the crosswalk closer to the intersection.
- Landing at gutter elevation increases potential foe ponding and accumulation of debris on the landing.
- Slope of parallel curb ramps in sidewalk may provide a directional cue to pedestrians who are visually impaired or blind.
- APS push button locator tone will assist blind or visually impaired persons in finding crossing location and and tactile arrow may provide some assistance with aligning to cross.
- If landing is small, it may eliminate the ability to separate the APS push buttons and speakers by more than 10 feet. If APS pairs are closer than 10 feet, speech walk messages and additional features are needed to clarify walk indication.

Typical Aspects Accessible Public Rights-of-Way—Planning and Designing for Alterations

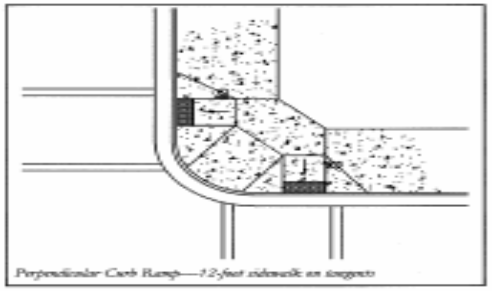
Curb ramp Examples – describes when different configurations should be used



Perpendicular Curb Ramp—5-foot sidewalk on tangents

Example 3—Perpendicular Curb Ramp

- Provides usable curb ramps where narrow (4-5') sidewalk is at back of curb, if additional right-of-way is available.
- This design will require the use of additional/ available right-of-way.
- Layout enables area between the two curb ramps to retain the curb height, which assists in drainage and discourages vehicles cutting across the corner.
- Curb ramp must lie entirely within the crosswalk limits; flares are not part of PAR and can lie outside crosswalk markings.
- Curb ramp slope aligned with crosswalk direction will provide a directional cue for the visually impaired and blind pedestrians, particularly when combined with tactile arrow of APS.
- The use of paired curb ramps (a separate curb ramp and landing for each direction of crosswalk) will allow pedestrians with disabilities to be aligned with the crossing direction while waiting to cross the street.
- Paired curb ramps will help meet the separation requirements for APS.
- APS push button locator tones will assist blind or visually impaired persons in finding crossing location and tactile arrows may provide some assistance with aligning to cross.

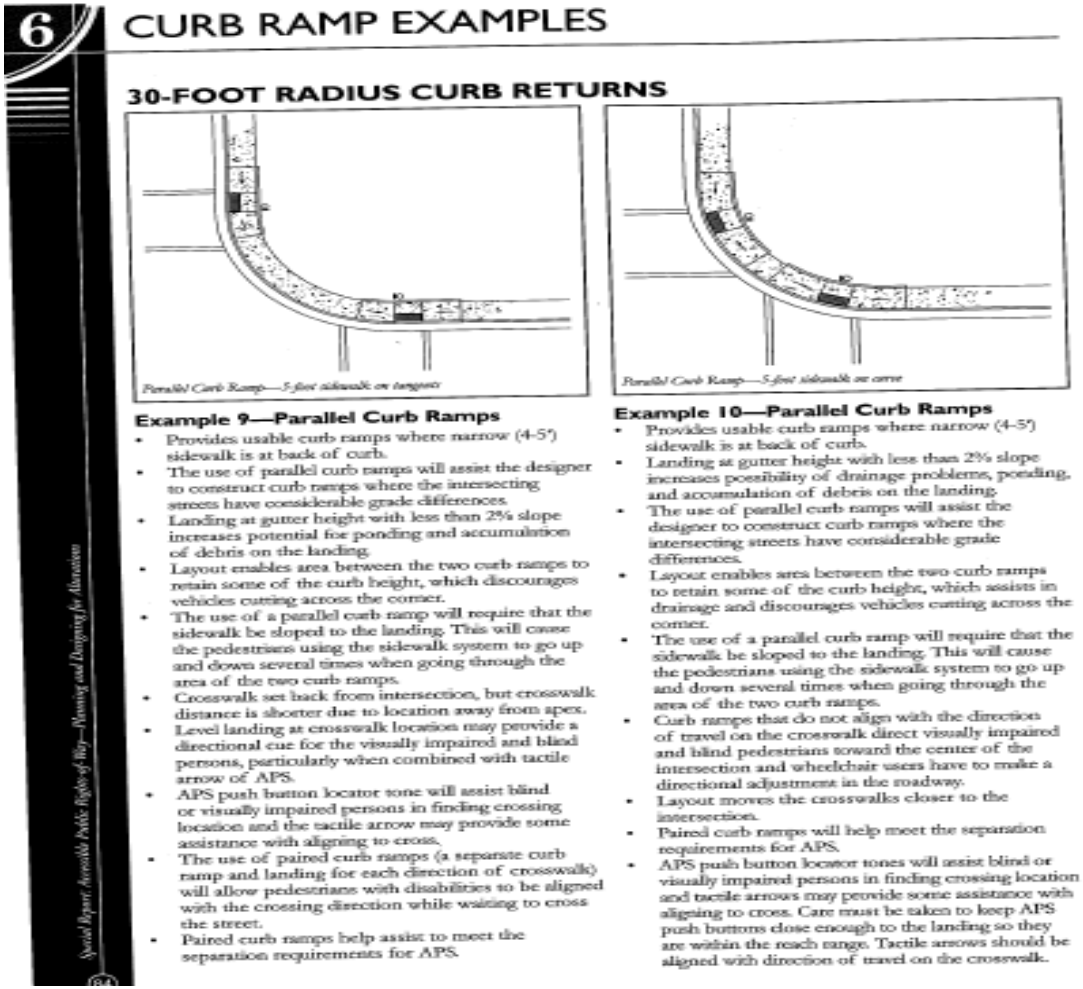


Perpendicular Curb Ramp—12-foot sidewalk on tangents

Example 4—Perpendicular Curb Ramp

- 12-foot sidewalk at back of curb provides more room for directional curb ramps.
- Layout enables area between the two curb ramps to retain the curb height, which assists in drainage and discourages vehicles cutting across the corner.
- Curb ramp must lie entirely within the crosswalk limits; flares are not part of PAR and can lie outside crosswalk markings.
- Curb ramp slope aligned with crosswalk direction will provide directional cue for the visually impaired and blind, particularly when combined with tactile arrow of APS.
- Paired curb ramps will help to meet the separation requirements for APS.
- APS push button locator tones will assist blind or visually impaired persons in finding crossing location and tactile arrow may provide some assistance with aligning to cross.

Curb ramp Examples – describes when different configurations should be used



6

CURB RAMP EXAMPLES

30-FOOT RADIUS CURB RETURNS

Example 9—Parallel Curb Ramps

- Provides usable curb ramps where narrow (4-5') sidewalk is at back of curb.
- The use of parallel curb ramps will assist the designer to construct curb ramps where the intersecting streets have considerable grade differences.
- Landing at gutter height with less than 2% slope increases potential for ponding and accumulation of debris on the landing.
- Layout enables area between the two curb ramps to retain some of the curb height, which discourages vehicles cutting across the corner.
- The use of a parallel curb ramp will require that the sidewalk be sloped to the landing. This will cause the pedestrians using the sidewalk system to go up and down several times when going through the area of the two curb ramps.
- Crosswalk set back from intersection, but crosswalk distance is shorter due to location away from apex.
- Level landing at crosswalk location may provide a directional cue for the visually impaired and blind persons, particularly when combined with tactile arrow of APS.
- APS push button locator tone will assist blind or visually impaired persons in finding crossing location and the tactile arrow may provide some assistance with aligning to cross.
- The use of paired curb ramps (a separate curb ramp and landing for each direction of crosswalk) will allow pedestrians with disabilities to be aligned with the crossing direction while waiting to cross the street.
- Paired curb ramps help assist to meet the separation requirements for APS.

Example 10—Parallel Curb Ramps

- Provides usable curb ramps where narrow (4-5') sidewalk is at back of curb.
- Landing at gutter height with less than 2% slope increases possibility of drainage problems, ponding, and accumulation of debris on the landing.
- The use of parallel curb ramps will assist the designer to construct curb ramps where the intersecting streets have considerable grade differences.
- Layout enables area between the two curb ramps to retain some of the curb height, which assists in drainage and discourages vehicles cutting across the corner.
- The use of a parallel curb ramp will require that the sidewalk be sloped to the landing. This will cause the pedestrians using the sidewalk system to go up and down several times when going through the area of the two curb ramps.
- Curb ramps that do not align with the direction of travel on the crosswalk direct visually impaired and blind pedestrians toward the center of the intersection and wheelchair users have to make a directional adjustment in the roadway.
- Layout moves the crosswalks closer to the intersection.
- Paired curb ramps will help meet the separation requirements for APS.
- APS push button locator tones will assist blind or visually impaired persons in finding crossing location and tactile arrows may provide some assistance with aligning to cross. Care must be taken to keep APS push buttons close enough to the landing so they are within the reach range. Tactile arrows should be aligned with direction of travel on the crosswalk.

Public Rights-of-Way Access Advisory Committee (PROWAAC)
Special Report: ACCESSIBLE PUBLIC RIGHTS-OF-WAY Planning and Designing for Alterations

- **http://www.access-board.gov/PROWAC/alterations/guide.htm**

- Can Download a PDF version or request a hard copy

Lessons Learned

- Look at Transition Plan
- Look at Project Scope
- Don’t design projects and assume the standard sheet is going to work
- Due Diligence – go to the field and do some engineering
- Just because a standard sheet won’t doesn’t necessarily mean that you’ve violated ADA. Engineer a solution, get concurrence from Roadway Services (we may run by FHWA), then document as “the best that could be constructed.”

http://www.fhwa.dot.gov/civilrights/ada_qa.htm

- **Another Good Source**
- Questions and Answers from the Department of Civil Rights

http://www.fhwa.dot.gov/civilrights/ada_qa.htm

Public Agencies covered by ADA and Section 504

1. What authority requires public agencies to make public right of way accessible for all pedestrians with disabilities?
2. What do these statutes require public agencies to do?
3. Does the ADA require public agencies to provide pedestrian facilities?
4. What is FHWA's responsibility for assuring access for persons with disabilities?
5. What public agencies must provide accessible pedestrian walkways for persons with disabilities?
6. Can a public agency make private individuals or businesses responsible for ADA and Section 504 mandated pedestrian access?
7. What United States Department of Justice (USDOJ) and United States Department of Transportation (USDOT) regulations govern accessibility requirements?
8. What is FHWA's authority to implement ADA and Section 504 requirements?
9. What is the public right of way?

http://www.fhwa.dot.gov/civilrights/ada_qa.htm

Transition plans

10. What authority requires public agencies to make transition plans?
11. What should a transition plan include?
12. How does the transition plan relate to a public agency's transportation planning process?
13. What public agencies must make a transition plan?
14. When should the FHWA review an agency's transition plan?
15. When and how should a transition plan be updated?

http://www.fhwa.dot.gov/civilrights/ada_qa.htm

Projects Covered by the ADA and Section 504

16. What projects must provide pedestrian access for persons with disabilities?
17. What projects constitute an alteration to the public right of way?
18. What activities are not considered to be alterations?

http://www.fhwa.dot.gov/civilrights/ada_qa.htm

Timing of Accessibility Improvements

19. Does a project altering a public right of way require simultaneous accessibility improvements?
20. When does the scope of an alteration project trigger accessibility improvements for people with disabilities?
21. Do maintenance activities require simultaneous improvements of the facility to meet ADA standards?
22. When should accessible design elements be incorporated into projects in the public right of way?

http://www.fhwa.dot.gov/civilrights/ada_qa.htm

Cost

23. How does cost factor into a public agency's decision in its transition plan concerning which existing facilities must comply with ADA and Section 504 pedestrian access requirements?
24. For a new project planned outside of the transition plan, with ADA accessibility improvements required to make the facility readily accessible and useable by individuals with disabilities, can cost be a reason not to complete an ADA-required accessibility improvement?
25. For an alteration project planned outside of the transition plan, with ADA accessibility improvements required within the scope of the project, can cost be a reason to decide what ADA-required improvements will be completed?
26. What role does the "maximum extent feasible" standard play for ADA accessibility requirements in altered projects?
27. What should a public agency do when it does not control all of the public right of way required to provide access for persons with disabilities?
28. Can a public agency delay compliance with the ADA and Section 504 on alteration projects through a systematic approach to schedule projects?

http://www.fhwa.dot.gov/civilrights/ada_qa.htm

Elements of Accessible Design

29. What are the elements of an accessible design?

Funding

30. What sources of funding may be used to comply with ADA and Section 504 requirements?

Maintenance

31. What obligation does a public agency have regarding snow removal in its walkways?
32. What day-to-day maintenance is a public agency responsible for under the ADA?

Criteria

33. What accessibility training is available?
34. Where is information on the criteria to be used in developing accessible facilities?

Legal Context: ADA & Section 504:
"Nondiscrimination" Corollary

- Compliance requires that where public agencies provide pedestrian facilities, those facilities are to be accessible to persons with disabilities. 28 CFR 35.149 – 35.151

- Pedestrian curb ramps required in facility where it is legal to walk. USDOJ Toolkit, Chapter 6, §3, ¶4

- Therefore, **review local law & remember:**
  - **Compliance does not require analysis of pedestrian need for placement of facilities.**
  - **Compliance does not require that public agencies provide sidewalks and curb ramps everywhere.**

Legal Context: ADA & Section 504:

Enforcement:

Ultimate Remedies

- Where noncompliance exists:
- **For Federal-aid recipient: FHWA can withhold federal money**, after enforcement process required at 49 C.F.R. §§ 27.121 – 27.129. **(Section 504)**

  – **For State or local government, regardless of federal funds: FHWA shall seek voluntary compliance agreement with public agency**, and if voluntary negotiations are unsuccessful, shall **send case to the Attorney General** for appropriate action. 28 C.F.R. §§ 35.173 – 35.174. **(ADA)**

ADA & Section 504

The End